

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**LUGO, *et al.*,**

**Plaintiffs,**

**vs.**

**FARMERS PRIDE, INC.,**

**Defendant.**

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**CIVIL ACTION NO. 07-CV-00749**

**Honorable Michael M. Baylson**

**PLAINTIFFS' OCTOBER 11, 2010 SUPPLEMENTAL STATEMENT OF FACTS**

Plaintiffs submit this October 11, 2010 Supplemental Statement of Facts pursuant to the Court's Order filed on October 1, 2010, and in support of Plaintiffs' Brief Justifying Their Revised Collective Action On Behalf Of More Narrowly Defined Groups Of Similarly Situated Employees Under 29 U.S.C. § 216(b) Pursuant To The Court's Order Dated October 1, 2010. This supplemental statement of facts summarizes some of the Plaintiffs' deposition testimony (for those unable to testify at the evidentiary hearing) regarding the three main issues highlighted in Plaintiffs' accompanying brief, specifically, whether Defendant employed a policy of permitting work that took place: 1) before the "Shift Punch In Time," (the first time on Defendant's schedule); 2) during the meal period; and 3) after the "Shift End Punch Out Time" (the last time on Defendant's schedule). This testimony constitutes the Plaintiffs' own speaking voice (often with the help of a translator), subject to cross-examination. It demonstrates that while not identical, and with minor variations concerning the exact equipment and gear utilized by each worker, the order in which they performed their work activities at issue, and the exact amount of time it took to perform them, the hourly workers are "similarly situated" with respect to their FLSA claim, and can present representative testimony when grouped by department and

shift. Plaintiffs respectfully request that the Court consider this testimony in determining whether to grant Plaintiffs' request.<sup>1</sup>

**I. PLAINTIFFS' WORK BEFORE THE SHIFT PUNCH IN TIME**

**Wilfredo Blanco Maya**

Wilfredo Blanco Maya worked in breast deboning, third shift, and in CVP. Blanco Dep. at 58:18-59:15. He received training when he first started working at Farmers Pride including instructions on what protective clothing and equipment he was supposed to wear including sleeves, safety gloves, cloth gloves, plastic gloves, arm guard, hairnet, beard net, earplugs, cloth apron, plastic apron, and metal safety glove. *Id.* at 69:23-70:18; 81:16-82:2 (except when working CVP).

How early he got to the plant varied day to day but he usually arrived about 20 minutes prior to the start of the shift. *Id.* at 126:12-22. He would clock in 15 minutes before the hour. *Id.* at 127:21-23. If he arrived more than 15 minutes before the shift start time, he would get on the line to pick up the equipment first. *Id.* at 127:24-128:3. His normal pre-shift routine started by clocking in "[b]ecause even if you clocked in early, they would just start paying you [at the scheduled start time]." *Id.* at 128:23-129:3. "Sometimes there were more people waiting to clock in because they would come in rides . . . . So I would have to wait, like, one or two people to clock in." *Id.* at 145:25-146:5. Then, he would get in line to pick up the equipment. *Id.* at 129:5-8.

He had to wait in line to pick up his clothing and equipment from the supply room. *Id.* at 135:9-12. Sometimes the wait would be four or five minutes but on Sundays, he'd wait for

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<sup>1</sup> All cited deposition testimony herein is attached as the following exhibits: Exhibit 1 (Wilfredo Blanco Maya); Exhibit 2 (Faridi Gomez); Exhibit 3 (Carmen Torres); Exhibit 4 (Diana Cedeno); Exhibit 5 (Luz Lugo); Exhibit 6 (Edgardo Collazo); Exhibit 7 (Jose Polanco); Exhibit 8 (Johnny Torres Maldonado); Exhibit 9 (Elliot Hernandez); Exhibit 10 (Joyce Rubendall); Exhibit 11 (Damaris Perez).

seven to eight minutes because the line was very long. *Id.* at 135:13-17. Depending on what time he arrived, he'd have to wait more or less time. *Id.* at 137:3-7. After the supply room, he would go to his locker, and change his shoes. *Id.* at 129:5-8. He would then put on a hoodie, put on his apron, sleeves, beard net, hairnet, earplugs, security gloves and cotton gloves. *Id.* at 129:8-13. Certain equipment must be worn before entering the department including: hairnet, beard net, earplugs, boots, cotton apron, arm guard, safety gloves and the cloth apron. *Id.* at 144:7-19. Even when working the button and not working the knives, he had to wear an arm guard because "they could send you over to the line again any time." *Id.* at 82:22-83:4. He would pass the yellow gloves and boots through a disinfectant. *Id.* at 129:13-14. Then, he could start working on the line. *Id.* at 129:15.

### **Faridi Gomez**

From 2005 to 2006, Gomez arrived at the plant at 8:30 at the latest for her 9:00 shift. Gomez Dep. 174:8-11. She usually waited in line at the supply room for approximately 7-10 minutes. *Id.* at 185:18-186:5. She would then walk from supply room to her locker where she stored her boots. *Id.* at 186:20-187:13. It took her 6-7 minutes to change into her boots. *Id.* at 194:3-14. After finishing at her locker, she would wait in the cafeteria for her shift to be called into the department. *Id.* at 188:8-189:9. It was a 3-4 minute walk from the locker to the cafeteria. *Id.* at 195:6-196:3.

Once called, Gomez and her coworkers would go to the department and stand in line outside the department door. *Id.* at 189:16-19. Her department would be called in to work 5-9 minutes before their actual shift start time. *Id.* at 180:3-9. She would put on her smock, hairnet and earplugs while waiting in line. *Id.* at 189:20-190:24. It took 3-4 minutes to put these things on outside the department. *Id.* at 196:5-12. Time to put on: Earplugs (30 sec), smock (30 sec),

apron (30-40 sec), plastic gloves (30-40 sec), safety glove (30-40 sec), arm guard (20-30 sec), plastic sleeve (30-40 sec). *Id.* at 196:5-200:6. Everyone would sanitize on the way into the department. *Id.* at 191:3-7. A Farmers Pride employee checked to make sure your hair was not outside the hairnet and that you were not wearing jewelry. *Id.* at 190:10-17.

### **Carmen Torres**

She was told in her orientation that she was supposed to wear the hairnet, the cloth gloves, the plastic gloves, the sleeve protector, and the arm protector. C. Torres Dep. 70:8-72:6. She was also shown a video during orientation the stated the same. *Id.* She testified that the equipment she wears is mandatory because they give her the equipment to wear and the nature of the work requires it. *Id.* at 108:3-15 (noting cotton gloves are given to everyone for the cold); 113:9-114:18 (noting the sleeves are given to everyone to keep them dry and reduce mess).

Her shift begins at 7:45 which is the time the line started. *Id.* at 55:21-23 (noting the shift start time); *id.* at 86:6-24, 92:18-93:5 (noting the line did not start at 7:49 as scheduled). She wears different equipment depending on her position that day. *Id.* at 104:19-25. For example, she wears the mesh glove and plastic arm guard when she is working in a knife position-trimmer. *Id.* at 101:19-102:8.

Prior to when the timekeeping system changed, she arrived to work around 7:15 or 7:20. *Id.* at 122:23-123:6. When she arrived, she punched-in first. *Id.* at 122:12-15. Then, she went to wait in line at the supply room which usually took about four or five minutes. *Id.* at 126:2-15, 115:6-116:7; *id.* at 129:3-13.

Next, she would walk to her locker. *Id.* at 126:2-15, 115:6-116:7. In her locker she stowed her plastic sleeves, cloth gloves, safety glove, arm guard, and a sheath. *Id.* at 121:4-21; 135:10-136:7. She donned her plastic sleeves, earplugs, hairnet, boots, and smock at her locker

before heading to going to wait in line outside the department. *Id.* at 139:12-147:12; 155:6-159:23; *id.* at 147:6-17. She put on her gloves inside the department. *Id.* at 139:23-140:7. She had to wash her hands and sanitize her boots before her shift but did not have to wash equipment. *Id.* at 164:4-13 (hands); *id.* at 164:17-25 (boots); *id.* at 163:23-164:6 (other equipment).

It took her one to two minutes to walk from the time clock to the supply room. *Id.* at 150:6-151:9. It took less than a minute to walk from the supply room to the locker. *Id.* at 152:15-153:9. It took approximately four to five minutes to clock in, wait in line at the supply room, get equipment and then walk back to her locker. *Id.* at 153:16-25. It took her four to five minutes to put on her equipment at her locker. *Id.* at 154:11-15. It takes a minute to walk from her locker to her department since the renovations have been completed. *Id.* at 160:24-161:4.

### **Diana Ceden**

Ceden says it typically took between 10-20 minutes to go from arriving at the plant to opening her locker but could take less. *Id.* at 227:21-228:4. The first thing Ceden did upon arriving at the plant was get in line to punch in making her punch records an accurate portrayal of what time she arrived at the plant each day. Ceden Dep. 223:3-17. She was required to punch in no more than 15 minutes before the start of her shift. *Id.* at 149:18-152:4 (noting that Farmers Pride “had some letter notice that stated that all employees must punch in 15 minutes before starting their shift”). She would then get in line to pick up her equipment at the supply room. *Id.* at 223:25-224:7. Although lines were typical, the equipment pick-up lines were longer on Sundays. *Id.* at 224:8-13. After collecting equipment at the supply window, she would walk to her locker to retrieve and don some of her equipment and then get in line at her department. *Id.* at 224:14-225:3. She stored some of her equipment in her locker, including the boots, socks, gloves (safety and cloth), hard plastic arm guard, apron, and coat. *Id.* at 225:4-19, 226:3-15. She would don her coat, socks, boots, and smock in front of her locker. *Id.* at 226:16-

227:12. Once at her locker, it took 3-4 minutes for her to don her coat, socks, and boots. *Id.* at 228:5-7. It took an additional 2-3 minutes to put on the smock and remaining equipment. *Id.* at 228:17-21.

After donning her equipment, she would wait to enter the department. Cedeno's supervisor would yell "Deboning let's go" frequently five minutes before the start of Cedeno's shift to signal employees that it was time to enter the department. *Id.* at 153:3-22. Upon entering the department, she washed her hands and boots before the shift, but does not recall if she washed other items. *Id.* at 234:21-235:13.

In the Cut Up and Breast Deboning Departments where Cedeno worked, her mandatory equipment included a coat, socks, boots, hairnet, earplugs, cloth gloves, protective gloves, plastic yellow gloves, white sleeves, a hard plastic arm guard, apron and smock. *Id.* at 201:25-203:2, 210:3-15; 211:11-212:15; *see also id.* at 216:23-25; 217:20-23 (noting her cut-up equipment was the same). Cedeno knows the apron, and sleeves were mandatory because her supervisors, Judy and Nelson, told her so. *Id.* at 220:3-221:22. Cedeno was also told in her department that the equipment was mandatory and that if she did not wear it she would be sent to the office and given a warning. *Cf. id.* at 120:23-121:2 (noting that she was told rules for PPE in her area as part of her safety training). Once, Cedeno received a documented verbal counseling from her supervisor, Drew Johnson, for not wearing her safety equipment. *Id.* at 191:5-15.

### **Luz Lugo**

Luz Lugo worked on the third shift in Breast Deboning and in the Cut-Up Department. She was informed of which PPE she must wear during orientation. Lugo Dep. 21:25-23:10. After orientation, Lugo was instructed by supervisor Nancy Mateo what PPE to wear. *Id.* at 23:25-24:16. She was required to wear the following items of clothing in Deboning: smock,

apron, boots, plastic sleeves, arm shield, cotton gloves, plastic gloves, mesh glove, earplugs, and hairnet. *Id.* at 124:8-125:14.

Lugo usually arrived to the plant 30 minutes before her shift start time, but on Sundays, she would arrive one-hour before her shift start time. *Id.* at 140:19-141:14, 142:20-24 (non-Sundays); *id.* at 141:15-20 (Sundays). Most of the other workers in Cut Up and in Deboning arrived to the plant at the same time as Lugo. *Id.* at 156:5-16. The majority of the workers arrived around the same time to have enough time to get equipment and put on equipment prior to their scheduled start time. *Id.* at 156:24-157:12, 157:25-158:10. It took Lugo approximately 30 minutes to collect and put on her PPE. *Id.* at 82:17-83:11. Lugo was required to be dressed and ready to work by 8:30 and could enter the department at 8:30. *Id.* at 209:3-24. By 8:32, Lugo was working on the line. *Id.*

Upon arriving, she punched in first, then went to her locker. *Id.* at 141:21-24, 148:7-11. Lugo punched in using a hand scanner. *Id.* at 149:23-150:10. She used her locker to store her mesh glove, hairnet, cotton gloves, nail filer, arm protector, and plastic gloves. *Id.* at 148:19-150:2. She changed her plastic gloves and hairnet everyday at the supply room but she always used the same arm protector and mesh glove. *Id.* at 149:15-22.

Lugo went to the supply room Monday through Friday to change the plastic apron and smock. *Id.* at 154:9-155:7. It took Lugo 5 minutes to walk from the locker room to the supply area. *Id.* at 163:17-20. The other workers in both Deboning and in Cut Up also waited in line with Lugo to get equipment at the supply room. *Id.* at 155:8-18. Lugo put on her PPE outside of the supply window after she picked her clothing items from her locker. *Id.* at 152:18-25. It took Lugo 10 to 15 minutes to put on PPE outside of the supply area. *Id.* at 164:3-9. It took Lugo 2 to 3 minutes to put on her boots. *Id.* at 171:6-8. It took Lugo one minute to put on the smock.

*Id.* at 171:8-11. It took Lugo 3 minutes to 4 minutes to fix up the equipment, i.e., put sleeves under the apron. *Id.* at 171:16-21. It took Lugo 3 to 5 minutes to put on the cotton glove and cutting/mesh glove. *Id.* at 171:16-172:25. It took Lugo 30 seconds for her to put on the earplugs. *Id.* at 173:2-7.

On Sunday, Lugo would take out all of the equipment from the locker, change all of the equipment, and then put on that equipment. *Id.* at 151:23-152:7. On Sunday, Lugo sometimes waited 15 minutes to 30 minutes at the supply room to get equipment. *Id.* at 152:14-17.

Lugo had to get dressed while stationary, with the exception of the hairnet, because there were so many items of equipment; she had to put them on a table in order to get dressed. *Id.* at 160:10-22. Therefore, she did not put on equipment while walking from the supply area to her department. *Id.* at 159:19-22. Lugo donned her PPE in the following order: boots, smock, hairnet, sleeves, cotton glove, cut glove, plastic gloves, and earplugs. *Id.* at 160:23-161:14. Lugo put on the mesh glove and arm shield before entering the department. *Id.* at 159:23-160:2.

### **Edgardo Collazo**

Prior to the 2007 timekeeping changes, Collazo always arrived 45 minutes to an hour before his shift start time. Collazo Dep. 143:25-144:21. If he arrived very early he would go to the cafeteria, but never after he put on his PPE. *Id.* at 161:2-10. He would go to his locker first and then get in line at the supply room. *Id.* at 145:5-12; *id.* at 152:8-16. It took about 3-4 minutes to walk to the supply room from the locker. *Id.* at 166:4-6. The line was very long because everybody lined up at the same place to get their equipment. *Id.* at 157:10-24 (noting the line ranged from seven to twelve minutes); *id.* at 166:4-8 (“[I]t would take about eight to ten minutes on the [supply room] line.”).

He would then go back to his locker and put on his PPE because his supervisor told him he had to put on all his PPE before going to clock in. *Id.* at 152:8-23 (noting he returned to his



locker to don his PPE); *id.* at 163:3-23 (supervisor required he don his PPE before clocking in); *see id.* at 167:23-168:4 (noting it took him 11-13 minutes to go to his locker, the supply room, then back to his locker). He put on all his PPE before entering the department as required, and did not put any on inside the department. *Id.* at 159:8-160:10; *see also id.* at 163:3-23 (noting supervisor requirement). It took about 5 minutes to don his PPE at his locker. *Id.* at 168:5-9.

Next, Collazo would go to punch in. *Id.* at 152:8-23. He was required to be at his department 2-3 minutes before the shift start. *Id.* at 164:7-165:22. He had to disinfect his gloves and boots before entering the department. *Id.* at 174:2-13.

### **Jose Polanco**

He usually arrived approximately 40-45 minutes before his shift start at 9:00 o'clock. Polanco Dep. 142:2-17. He clocked in first making his clock-in time a good indicator of when he arrived at the plant. *Id.* at 143:2-6; *id.* at 154:11-155:9.

After clocking in, he went to the supply room and waited in line to pick up equipment. *Id.* at 143:2-7. He waited in long lines to exchange and receive equipment at the supply room. *Id.* at 90:15-91:2 (receiving equipment); *id.* at 160:11-162:16 (exchanging equipment). He would wait at the supply room line for 20-40 minutes every day to pick up plastic gloves, earplugs, smock, plastic sleeves. *Id.* at 157:3-22 (length of wait); 160:3-7 (which items he picked up).

From the supply room, he would go to his locker. *Id.* at 143:2-9. The locker was located in the cafeteria. *Id.* at 171:24-172:23. The walk from the supply room to the locker was about 3 minutes. *Id.* at 169:1-5. He got other equipment from the locker to get other equipment (boots, apron, earplugs, hairnet, cloth gloves). *Id.* at 90:23-91:7; 158:24-160:2. He put on his earplugs, boots and hairnet at his locker. *Id.* at 162:17-163:16. He spent 8-10 minutes at his locker. *Id.* at

164:22-165:22. It took 25-30 minutes for him to clock in, and get his equipment from the supply room and the locker. *Id.* at 144:16-145:4; 170:6-171:19. Farmers Pride did not require that he go to the supply room first, then locker. *Id.* at 145:25-146:25.

After stopping at his locker and the supply room, he carried the rest of his equipment to the cafeteria to await the start of his shift. *Id.* at 143:2-144:8; 163:23-164:6. He did not eat or drink in the cafeteria, nor did others. *Id.* at 143:17-25. He waited about five to eight minutes in the cafeteria. *Id.* at 145:5-10. They called everyone in early, so employees had to be in line outside the department about 2 minutes before the shift start time of nine o'clock to put their equipment on. *Id.* at 91:12-93:7. He put his smock on as he was leaving the cafeteria. *Id.* at 164:7-20. This took two minutes. *Id.* at 166:11-20.

It took 2-3 minutes to walk from the cafeteria to the department. *Id.* at 172:24-173:6. Inside the department he puts on the apron (40 sec), cloth gloves (30 sec), safety gloves (20 sec), arm guard (20 sec), rubber gloves (25 sec), sleeves (30 sec). *Id.* at 166:21-167:22.

### **Johnny Torres Maldonado**

From 2002 to 2006, Mr. Maldonado would arrive between 8:00 and 8:20 for his shift that started at 9:00 but he could not punch in until 8:45. Maldonado Dep. 224:7-14. At 8:55 his supervisor would yell for the department employees to get on the line. *Id.* at 188:3-23, 306:25-307:8. Thus, he had to be mostly dressed and ready to work by 8:55. *Id.* at 306:25-308:8. At some point, Farmers Pride put a note on the clock stating employees could not punch in before 8:45. *Id.* at 224:7-14. Before that sign went up, he would clock in when he entered the plant, and get in line for the supply room. *Id.* at 235:20-236:9.

Usually he had to wait in line for 15 to 20 minutes on a regular day and 15-30 minutes on a Sunday. *Id.* at 241:24-242:4; *see also id.* at 225:7-23 (discussing waiting in line and clocking

in). Then, he would go to his locker to don his PPE. *Id.* at 242:11-17. It took about a minute and a half to walk from the supply room to the locker. *Id.* at 242:18-24. The locker area was very crowded which made getting changed longer. *Id.* at 300:18-302:21. “Sometimes, if you had a locker that was above [a person who was changing or using his or her own locker], you have to wait until the person is finished, like, two minutes or whatever it took him to take his things. Since there were people walking, you have to wait so you - - to be able to get your things.” *Id.* at 301:10-16; *see also id.* at 302:23-303:2. He spent about 2 minutes at his locker at the shift start. *Id.* at 302:23-303:2. It took about 30 seconds to put on the plastic gloves. *Id.* at 247:5-7. He also had to sanitize his plastic PPE and boots before entering the department. *Id.* at 254:4-18. He had to sanitize his hands and plastic gloves separately. *Id.* at 310:20-311:22.

### **Elliot Hernandez**

Hernandez arrived for his 9pm shift at 8pm. Hernandez Dep. 142:14-22. He usually clocked in when he entered the plant, but sometimes went to the supply room or locker first, then clocked in. *Id.* at 142:23-144:21. His normal routine started by clocking in, going to supply room, and going to his locker before proceeding to the department. *Id.* at 170:22-172:19. He went to the supply room at the start of each shift to exchange PPE. *Id.* at 166:17-167:16. He and other employees also stored PPE in their locker. *Id.* at 165:25-166:16. He usually got dressed at the locker, except the apron and the earplugs which he put on at the department door. *Id.* at 178:20-179:15.

It was a 1 minute walk from the time clock to the supply room and 2 minutes from the supply room to the locker. *Id.* at 182:18-24. Factoring in the time spent waiting in line, it took 20-25 minutes to clock in, go to the supply room and walk to the locker, then 5-10 minutes to put PPE on at the locker. *Id.* at 182:25-183:8. He spent 15-20 minutes waiting in line at the supply

room. *Id.* at 23:15-19, 162:17-163:12. It was a 2-3 minute walk from the locker to the department entrance. *Id.* at 154:12-24.

When he was cleaning the breasts he used a protective glove, arm guard, hairnet, earplugs, beardnet, apron, nylon gloves, plastic gloves. *Id.* at 121:24-123:11. When he worked on the computer, the groundry and the Panera machine he wore a smock, apron, nylon gloves, plastic gloves, hairnet, beardnet and earplugs. *Id.* at 124:6-12. He was given a protective glove and an arm guard when he started working there and kept it in his locker. *Id.* at 119:14-121:7.

He had to be at the department dressed and ready to work five minutes before the shift start time. *Id.* at 23:19-24:2, 73:2-9, 74:15-18, 75:14-21, 152:9-154:10. People would be waiting in front of the door at 8:45. *Id.* at 160:11-21. About 100 people worked on his breast deboning shift and about the same for thigh deboning. *Id.* at 146:10-18. You would get a warning if you were getting in the department after 9pm. *Id.* at 147:7-150:24. The USDA checked them at the department entrance to make sure they were wearing everything and it was clean. *Id.* at 202:4-204:18.

### **Joyce Rubendall**

Joyce Rubendall works in the Evisceration Department. Her routine was basically consistent over time but the order she performed her pre-shift tasks did vary sometimes. Rubendall Dep. 155:24-156:5; *see also id.* at 171:20-172:2 (noting she followed the same routine even as the supply room moved around). “Prior to 2007, when [she] first came in, . . . the time clocks were right inside. So . . . , [she] would have punched in on the time clock on the way in. And then [she] would have went to [her] locker and got the equipment . . . put [her] boots and stuff on, take [her] other equipment out and . . . get in line, [] at the supply closet. . . . And sometimes that line was very long . . . .” *Id.* at 154:12-155:16; *see also id.* at 148:23-149:10; 148:18-25 (discussing footwear kept in her locker); *id.* at 182:14-183:15 (noting she donned her

gear near the supply room after obtaining it). Before equipment distribution shifted inside the department in 2007, her routine required her to arrive at work “at least approximately a half hour prior to [her] shift to allow [her] the time that [she] needed to get in line at the supply closet and get [her] equipment.” *Id.* at 150:21-24. When she came in 20-30 minutes prior to the shift, the line at the supply closet was already quite long so she estimates that other employees also arrived approximately 20-30 minutes before the shift start time to get in line. *Id.* at 160:20-161:6; 167:22-168:4. “[E]verybody [in her department] had to go to the supply window to get new equipment. You know, their stuff is dirty or messed up and you always would exchange it for new the next day.” *Id.* at 161:25-162:5.

Then, about a minute or two prior to the shift start, everybody would go “to get in line outside the department, because . . . there was usually a USDA inspector and a supervisor that inspected you, your apron and made sure it was clean, your boots and all that prior, and then you could go on to the department to your starting spot.” *Id.* at 157:2-9; 157:10-12; 179:11-17. If your equipment “wasn’t clean enough, you had to scrub it better before you were allowed on the line or go down and exchange it. And then, of course, you were considered late for your job.” *Id.* at 158:8-12; *see also id.* at 74:3-18 (noting supervisors told employees they had to have all their equipment clean and donned prior to taking their position on the line at the shift start time).

Prior to 2007, the only time her physical punch in or out would affect her pay was if she punched in after her line started or if she punched out before her line ended. *Id.* at 89:9-13. “[I]t didn’t matter if you punched in at 8:45, they weren’t going to start paying you until 9 o’clock. But they used to tell you, you could punch in ahead of time to go get your equipment at the supply closet. But . . . that doesn’t mean they were going to start paying you at 8:45.” *Id.* at 78:21-79:4.

**Damaris Perez**

Perez usually arrived at the plant between 8:30 and 8:35 for her 9:00 shift. Perez Dep. 178:21-179:8. She went to her locker because she stored some PPE there. *Id.* at 189:4-190:6 (stating she stored her apron, cotton gloves, plastic gloves, and boots there). After going to her locker, she proceeded to the supply room where she would wait in line for two to ten minutes. *Id.* at 181:10-22 (noting her process); *id.* at 188:10-189:3 (noting the length of the line). It took 2 minutes to walk from the locker to the supply room, and 2-3 minutes to walk from the supply room to the time clock. *Id.* at 195:10-22. Once she retrieved her equipment, she punched in. *Id.* at 187:2-11, 181:16-22. Her morning routine of going to her locker, the supply room, and clocking in before the start of her shift took her about 10-15 minutes regardless of the order of those activities. *Id.* at 196:14-21.

Perez could don her hairnet and smock while walking to the department. *Id.* 194:8-195:2. She was required to have a smock, hairnet, boots and earplugs to enter the department. *Id.* at 195:3-9. Additionally, she wore plastic gloves, plastic sleeves, a plastic apron, safety gloves and a hard plastic arm protector. *Id.* at 198:23-199:20. When she worked in evisceration, she did not wear the safety glove, arm guard or cloth glove. *Id.* at 200:11-22, 199:21-200:6. She had to sanitize her hands before entering the department. *Id.* at 204:12-21. She had to be ready to enter the department about ten minutes before her shift started. *Id.* at 205:20-207:4.

**II. PLAINTIFFS' WORK DURING THE MEAL PERIOD**

**Faridi Gomez**

Prior to 2007, Gomez was notified it was time for lunch when the supervisor yelled "break." Gomez Dep. 209:19-210:19. At the start of the lunch break, she would wash everything - her gloves, apron, the arm protector, and the sleeves. *Id.* at 210:14-23, 214:6-14,

219:17-220:16. She had to wait in a line that lasted 5-8 minutes. *Id.* at 220:17-23. She spent 5-7 minutes washing her PPE. *Id.* at 223:22-25. It took 3-4 minutes to walk from the sink to where the hooks were. *Id.* at 219:3-16. She would then hang her apron up and put the other PPE back at her workstation. *See id.* at 214:6-14 (noting she hung the apron and went back to her workstation to put other PPE up). It took about 1-2 minutes to remove all three gloves. *Id.* at 214:22-215:6. When she worked putting bags in boxes, she only had to remove the plastic gloves. *Id.* at 224:18-226:13 (noting she only wore plastic gloves when boxing); *see also id.* at 215:20-24 (noting it took 1-2 minutes to doff just her plastic gloves).

Five minutes before the end of the 30 minute break, the supervisor would yell “deboning let’s go,” indicating it was time to go back to work. *Id.* at 211:7-12, 230:23-231:14. On her way back into the department, she had to sanitize her hands. *Id.* at 240:24-241:6. A line to get back into the department usually developed because everyone was looking for their aprons – often selecting the wrong ones. *Id.* at 211:12-16. Upon entering the department, she would don all her PPE. *Id.* at 211:17-20. It took the same amount of time to don her PPE after lunch as it did in the morning. *Id.* at 237:12-25. As a boxer, it took about a minute to don her PPE, because she had less to put on. *Id.* at 241:7-11.

Everybody did the same thing at lunch. *Id.* at 212:10-17. She had about 15-20 minutes to herself at lunch. *Id.* at 232:5-233:16. As a boxer she had about 20-23 minutes to herself for lunch. *Id.* at 233:15-234:12.

### **Carmen Torres**

Torres received a half hour lunch break. C. Torres Dep. 95:8-15. Her break begins at 12:50 and the line starts again at 1:20. *Id.* at 181:25-182:20; *but see id.* at 97:19-98:3 (noting that it is possible the line stops for 36 minutes because she has never timed it with a watch); *id.* at 183:22-24 (admitting she cannot tell exact times because she does not watch the clock). Her

meal break begins when the last chicken passes her on the line. *Id.* at 165:23-166:14. After the last chicken passes, she leaves the line and goes to the sink. *See id.* at 167:12-24 (discussing walking to the sink). She also watches a clock during the meal break and starts heading back to her department about 1:18. *Id.* at 186:18-25; see also 182:7-20, 183:25-185:7 (discussing how she knows to go back into her department and how she knows what time it is when she gets back). When she gets up during the end of the meal break she walks to her department to see if the line is running. *Id.* at 196:19-197:16. The line normally starts running a minute or less after she gets up. *Id.* at 197:8-21.

At the beginning of the meal period, it takes her one or two minutes to walk from her place on the line to the sink but she does not have to wait in line. *Id.* at 167:16-168:6. At the sink, she has to wash the sleeves, the gloves and her boots regardless of her job task or position. *Id.* at 170:9-12. It takes her one to two minutes to wash these items during the meal break. *Id.* at 170:13-14.

When she works as a trimmer, she must also wash an arm protector, sheath, and knife. *Id.* at 170:18-22. *But see id.* at 170:23-171:10 (noting that since the 2007 changes, she does not have to wash her knife and file). Her supervisor told her that she has to clean her knife during the break and everyone in trimming washes his or her knife during the break. *Id.* at 172:10-173:5. It takes eight to ten minutes to wash her equipment during the break when she works in trimming. *Id.* at 173:6-10.

Currently, she removes her smock, the sleeves and her glove during the meal break regardless of position, but prior to 2007, she did not remove her smock. *Compare id.* at 174:14-18 (current meal break procedure), *and id.* at 177:25-178:14 (currently she hangs her smock on a



hook), *with id.* at 175:10-15 (pre-2007 meal break procedure); *id.* at 175:16-177:9 (pre-2007, she stowed her equipment in her locker during the meal break).

Currently, at 1:18, she gets up and checks to see if the line is running, then puts on her smock and the equipment she placed in the pocket of the smock (cloth gloves and plastic gloves). *Id.* at 196:19-197:17 (checks to see if line is running); *id.* at 188:3-189:5, 198:2-199:9 (donning at the end of the period). Currently, she takes the mesh glove to the locker during the meal break but she leaves the arm protector in the department. *Id.* at 189:18-190:5 (glove); *id.* at 190:10-16 (arm protector). It takes one to two minutes to walk from the cafeteria to her department. *Id.* at 187:2-7. She is also required to wash her hands when she returns from lunch. *Id.* at 193:22-194:7. Prior to 2007, she put her cloth gloves and plastic gloves in her locker because the smock did not have pockets and so no one would take them. *Id.* at 191:19-192:7. It took her one to two minutes to put her equipment on at the end of the lunch break. *Id.* at 193:10-16.

### **Wilfredo Blanco Maya**

At the beginning of Blanco's unpaid lunch break, a supervisor would shout "Break," then "everybody went over to get washed and you had to wait on a line until their time. And you'd get out up to five minutes late." Blanco Dep. 89:14-16. When the supervisor called "break," he would take off the arm guard, wash the gloves, and put the gloves inside the arm guard. *Id.* at 157:21-158:2. Then, he would put the knife in the knife holder. *Id.* at 158:2-13. He would wash his apron, place the safety glove in the pocket, hang up the apron, and go to break. *Id.* at 158:14-20. Sometimes he had to wait in line to wash his equipment. *Id.* at 165:8-10.

When he performed non-cutting jobs, he had to wait for the production to pass before he could leave the line. *Id.* at 160:3-12. Once he left the line, he would take off his gloves (plastic

and cotton) and his plastic apron (if he was wearing one). *Id.* at 161:12-17. Sometimes he had to wait in line to wash his equipment. *Id.* at 165:8-10.

When returning to the department after break, he would “wash and disinfect [his] hands, [his] boots. And [he] would go over to the place where [he worked on the line].” *Id.* at 170:18-171:3. When he was working with knives, he would have to “put on the sleeves, [he] would have to pull up [his] other – [his] sleeves. [He’d] have to put on the apron, but once in a while, when they called [him] earlier, if [he] was the one who was in the front of the line, it would take [him] one or two minutes because [he’d] be the first to . . . [his apron].” *Id.* at 171:9-16.

### **Diana Cedeno**

Cedeno’s unpaid lunch period began at 1:00am. Cedeno Dep. 157:14-17. “If farmers pride [gave two minutes to doff and wash PPE to employees], we wouldn’t have seen it because the time to wash the equipment and for the time to go to lunch would take more than two minutes.” *Id.* at 156:12-16. At the start of her lunch break, Cedeno and the other workers formed a line to wash their equipment. *Id.* at 241:11-15, 242:4-5. It took Cedeno 30-60 seconds to walk from her work station to the line at a wash station. *Id.* at 241:16-20. Her supervisors told her that she had to wash the plastic apron before going to lunch. *Id.* at 248:15-22. It took approximately 5 minutes to wash her equipment. *Id.* at 243:13-22. After washing her equipment, she returned to her workstation and set down her gloves and hanged her apron. *Id.* at 244:25-245:18. She removed her equipment, washed and then dried it. *Id.* at 239:22-240:15. She would place the apron on a hook. *Id.* at 244:25-245:4, 240:3-8. She would then go to her locker to get her food and, finally, she would eat. *Id.* at 239:22-240:11. Once she retrieved her food from her locker, she had about 7-8 minutes to eat lunch. *Id.* at 245:19-24.

After eating, she would get up to get her equipment and Judy would yell “Deboning, let’s go!” five minutes before the meal break was over. *Id.* at 239:22-240:20, 250:19-251:14. On the way back from lunch the workers would form a line. *Id.* at 250:19-251:4. Cedenó would verify that her knife was sharpened, put on all of her equipment again, and sanitized her hands and boots. *Id.* at 250:19-251:14. It took 2-3 minutes for Cedenó to put her equipment back on. *Id.* at 255:21-25. She sometimes had to clean the equipment again if it was dirty. *Id.* at 250:19-251:14. And 3-4 times per week she would get a new smock during lunch. *Id.* at 241:3-6. If Cedenó ever came back from break late, she received a verbal warning. *Id.* at 187:12-24. Cedenó has a documented verbal counseling from Tina Gebhard regarding her coming back late from lunch. *Id.* at 188:21-189:3 (reviewing the verbal counseling document).

### **Luz Lugo**

Lugo knew it was time for the meal break because an alarm would sound or her supervisor would yell break. Lugo Dep. 178:25-179:14. Lugo removed her equipment during the meal break in the following order: first the arm shield, then plastic gloves, then the apron, then the cutting/mesh glove, then the cotton gloves, and then the sleeves. *Id.* at 180:14-18:10. It took Lugo 3 minutes to 5 minutes to doff these items during the meal break. *Id.* at 179:15-25. She would then get in line to wash her equipment. *Id.* at 183:3-11. At the start of the meal break, Lugo washed the gloves, arm shield, apron and sleeves. *Id.* at 185:13-17. It took her between 3 minutes to 5 minutes to wash her PPE. *Id.* at 187:18-188:7. Lugo only had about 20 minutes to herself on her lunch break. *Id.* at 179:15-25.

### **Edgardo Collazo**

At the beginning of lunch, Collazo would go to his locker after washing his gloves. Collazo Dep. 178:13-18; *id.* at 184:8-18. Sometimes there was a line to wash the gloves. *Id.* at 189:5-11. Once he got to his locker, he would take off his PPE and leave it in the locker. *Id.* at

178:13-179:10. It took about 15 seconds to remove the cloth gloves, and the same for the plastic gloves. *Id.* at 179:22-181:2. Everyone left their PPE in their lockers at lunch. *Id.* at 181:7-11.

Five minutes before the end of the 30 minute break, the supervisors would call them back to work. *Id.* at 176:11-17, 192:20-25. At the end of lunch he would go back to his locker, pick up his PPE, put it on, and go back to the department. *Id.* at 178: 13-23, 193:12-194:20. When he returned from lunch, he had to disinfect his boots and gloves. *Id.* at 178:13-25, 193:19-194:4. As a result, he sometimes had only 20 minutes of free time for lunch. *Id.* at 191:12-192:5.

### **Jose Polanco**

Before 2007, Polanco's unpaid lunch period started at 1:30. Polanco Dep. 190:5-8. A supervisor notified Polanco when it was time for lunch by yelling. *Id.* at 190:9-12. Sometimes they would start lunch late if the supervisor forgot to call break at 1:30. *Id.* at 190:13-191:4. The lunch times could vary depending on production needs. *Id.* at 191:11-20. Once they called break, everyone went to the sinks to wash their plastic apron and plastic gloves. *Id.* at 191:21-25.

All the people who used the plastic aprons and gloves would follow the same procedure and go to the sinks to wash. *Id.* at 192:13-194:8. It took Polanco 1-2 minutes to walk from work station to sink. *Id.* at 194:13-16. When he was in a cutting position, he would wash his sleeves, apron, latex gloves, and arm guard. *Id.* at 196:15-24. It took 6 minutes to wait in line and wash those items. *Id.* at 197:18-23, 198:21-200:3. Polanco had to wash these items because the USDA inspectors would not let you leave dirty items at your workstation. *Id.* at 200:8-201:22. . He removed less equipment as a scale operator. *Id.* at 209:7-22.

Polanco always hung his apron up after washing it at lunch and he would also leave his gloves in the department. *Id.* at 202:11-203:14, 192:2-12. Before leaving the department he

removes his cloth gloves, safety gloves, plastic gloves, plastic apron, plastic sleeves, and arm guard. *Id.* at 204:20-205:3. He could not leave his smock on when he went to lunch. *Id.* at 205:11-16. The time required to remove his equipment included: sleeves (1-2 mins), apron (1-2 mins), plastic gloves (10-20 sec), safety glove (10-20 sec), arm guard (5 sec), cloth gloves (10 sec). *Id.* at 206:18-207:25. Before 2007 he had about 18 minutes to himself for lunch, but that time varied depending on the wash time. *Id.* at 212:9-214:6.

He went to the supply room during lunch once or twice a week to replace an item. *Id.* at 266:3-22. Co-workers would also go to the supply room. *Id.* at 267:24-268:5. He usually had to wait in a 2-4 minute line at lunch. *Id.* at 268:7-269:5. There was only one old lady working at the supply room at the time. *Id.* at 269:7-19.

He was notified that the meal break was over because the supervisor would come in and yell. *Id.* at 214:8-215:8. They would only get 30 minutes for lunch. *Id.* at 215:9-22. It took about 2-3 minutes to retrieve his equipment at the end of lunch. *Id.* at 216:13-217:5. It took about the same amount of time to put everything on as it did in the morning. *Id.* at 217:6-23. He also had to sanitize his hands. *Id.* at 218:9-14.

### **Johnny Torres Maldonado**

Maldonado was notified that his meal break was to begin by his supervisor yelling "break." Maldonado Dep. 254:22-24. At the start of the meal break, he had to clean his plastic gloves, sleeves, apron and boots. *Id.* at 255:4-8. It was a 20-40 second walk to the sink. *Id.* at 255:23-256:10. Once he got to the sink, he had to wait in line for about 2 minutes to get to the before washing his PPE. *Id.* at 257:24-258:2. It took about a minute and ten seconds for him to wash his PPE about 35 seconds of which was to wash his boots. *Id.* at 258:3-7 (everything); 259:4-21 (boots). After washing his PPE, he had to hang it up. *Id.* at 258:8-17 (noting he had to

go back to his work station, leave his gloves and white sleeves, and hang his apron on a hook). It took him about 1 minute to take off his PPE in the department. *Id.* at 258:18-259:3.

He was notified by his supervisor when lunch was over and it was time to go back to the department. *Id.* at 268:11-21, 304:22-305:16. At the end of lunch he had to put his apron, gloves and sleeves back on and sanitize them. *Id.* at 269:19-23. It took about 40 seconds to put these items on. *Id.* at 270:4-6. There was a short line to sanitize his PPE. *Id.* at 270:7-10, 306:6-14. It took an additional 20-40 seconds if he had to put on the safety gloves. *Id.* at 274:14-276:20. Accounting for the above, Maldonado had about 25 minutes to himself at lunch. *Id.* at 268:2-5.

#### **Elliot Hernandez**

At the beginning of the lunch break, Hernandez would wash his plastic sleeves, gloves, apron and arm guard, then hang them to dry. Hernandez Dep. 209:10-25. Before he could wash the equipment, he had to wait in line at the sinks. *Id.* at 212:24-213:9. He sometimes went to the supply room during lunch to exchange equipment. *Id.* at 213:13-215:25.

His supervisor would come and get employees when the break was over. *Id.* at 223:4-224:13. They would usually call employees back 5 minutes before the end of the lunch break. *Id.* at 229:8-11. Employees would put their PPE back on when they got back to the department which was crowded. *Id.* at 229:12-24. Accounting for these activities, he usually had about 15 minutes to himself at lunch. *Id.* at 221:12-213:6, 233:9-235:2.

#### **Joyce Rubendall**

Rubendall gets a 30-minute unpaid break. Rubendall Dep. 189:22-190:16. She timed those breaks on a regular basis using the watch she kept in her pocket. *Id.* at 190:20-191:3. She has found that she was not given 30 minutes of break time because her break includes time spent getting her equipment back on after lunch which forces her to come back early from lunch. *Id.* at

191:4-12. The only two days she observed a lunch longer than 30 minutes were the two days in October 2009 when the filming associated with this litigation was taking place in the department. *Id.* at 191:23-193:2. Taking off and putting on PPE during the break is the same as the beginning and end of the shift except you already have your boots and hairnet on from the beginning and they are not removed for breaks. *Id.* at 194:10-21; 201:5-15.

Once the break starts, she takes off her mesh glove and leaves it at her station. *Id.* at 196:2-5. She has to put her hydraulic stand down and then go to the sink to wash her apron, rubber glove, and other stuff and hang them on a hook in the department. *Id.* at 196:5-11; 196:19-197:3. Since there are other people who need to wash their gear, she sometimes has to wait for an available sink. *Id.* at 197:4-12. After that, she leaves the department and hangs her smock and headset on a coat rack outside the door and continues on to lunch. *Id.* at 196:12-18.

When she returns from break, she lets the mesh glove run underneath the water for a while until the water gets warm and “it feels like it’s getting the grease and stuff off it better.” *Id.* at 211:2-8. Her supervisors tell her it’s more sanitary to wash the mesh glove at both ends of the meal periods. *Id.* at 211:9-14. Sometimes, if her plastic apron was still a little dirty after break, she would rinse it more too. *Id.* at 211:19-212:9.

### **Damaris Perez**

Perez’s routine was the same regardless whether she worked the deboning line or the tenders table. Perez Dep. 216:23-217:9. In fact, all the employees in those departments had the same routine. *Id.* at 218:2-7. Perez’s lunch break began when she was notified by her supervisor. *Id.* at 208:3-22. Once the supervisor called for break, she would “[l]eave, get on line, remove and clean all of [her] clothing and equipment, [her] boots, [her] - - everything.” *Id.* at 216:17-22.

Before she could wash her gear, she had to wait in line at the sink for up to two minutes. *Id.* at 225:14-226:10. It took her between two and four minutes to walk from her workstation to the sink when she worked deboning but less time when she worked on the tender line in evisceration. *Id.* at 223:16-25 (deboning); *id.* at 224:2-20 (evisceration). Similarly, it took her less time to wash her gear in evisceration than deboning. *See id.* at 226:14-227:3 (noting it took 5 minutes to wash in deboning but less in evisceration). When she worked in evisceration, she removed gloves and apron and washed her apron. *Id.* at 224:21-225:7. When she was in deboning, she had to wash her plastic gloves, plastic sleeves, plastic gloves, protective glove, arm guard, plastic apron, and her boots. *Id.* at 218:8-19, 222:7-25. After washing her PPE, she hung items up on hooks that were provided. *Id.* at 220:11-221:25. She usually had about 20 minutes to herself during the meal break. *Id.* at 230:20-231:7.

Approximately three minutes before the end of the lunch period, supervisors would call the end of lunch. *Id.* at 231:5-232:6. Perez would then put her PPE back on and go to the line. *Id.* at 232:7-12. It took less time to put on her PPE at lunch than at the beginning of her shift. *Id.* at 232:17-233:3. She had to sanitize her hands when she entered the department. *Id.* at 234:13-15.

### **III. PLAINTIFFS' WORK AFTER THE SHIFT END PUNCH OUT TIME**

#### **Faridi Gomez**

At the end of the shift, Gomez had to wash her PPE. *Id.* at 243:2-5. Once, her supervisor told her “[i]f you want to, you can go punch out, and then come back to clean your equipment.’ He said, ‘You can take however much time you want - - five minutes, half an hour, an hour, whatever you want.’” *Id.* at 243:5-10. She knew she would not be paid for that extra time, but



she could not leave her equipment in a dirty state; rather it must be cleaned and dried. *Id.* at 243:11-16.

When production ended, she would walk to the sink to wash her PPE. *See id.* at 248:3-8 (noting it took four to five minutes because she had to walk around a large table to get to the sinks). When she got to the sink, she would have to wait in line. *See id.* at 248:9-25 (stating she had to wait varying amounts of time depending on the number of people in front of her). She would wash her arm protector, sleeves, safety glove, plastic gloves, boots and apron. *Id.* at 245:16-246:12. *But see id.* at 258:15-17 (noting she did not wash any PPE when she worked in boxing). Compared to the meal break, it took her longer to wash and dry her PPE at the end of the day. *Id.* at 249:2-250:7. After washing, she would remove her PPE in the department near the sinks. *Id.* at 260:25-261:25 (stating she removed her PPE by the sink except for the smock which she would toss in a hamper). She then went to her locker. *Id.* at 243:23-244:5. It took 5-7 minutes to walk from the department to her locker. *Id.* at 267:3-8; *see also id.* at 267:11-18 (noting it took about seven or eight minutes to walk from the department to her locker when she worked on the line). Lastly, she punched out before she left the plant. *Id.* at 245:2-15.

### **Carmen Torres**

Torres' shift is over when the last chicken or box passes her station. C. Torres Dep. 200:5-15. She then proceeds to the sink to wash and dry her sleeves and boots. *Id.* at 200:12-15, 201:24-202:10. It takes her more time to walk to a wash station at the end of the shift than during the meal break. *Id.* at 201:18-21. She occasionally has to wait in line for a sink at the end of her shift but she does not know how long she waits. *Id.* at 204:22-205:7. It takes her longer to wash her equipment at the end of the shift than during the meal break. *Id.* at 202:11-17. It takes her four to five minutes to wash her equipment at the end of the shift. *Id.* at 203:24-204:2. She

has to wash and dry her arm guard, sheath and knife when she works as a Trimmer, but she gives those items to her supervisor at the end of the shift. *Id.* at 213:9-214:7. She then throws away her gloves and earplugs and doffs her smock and places it in a hamper. *Id.* at 203:7-14 (noting she does not wash her gloves in the afternoon), 206:6-19 (discussing throwing away gloves and earplugs), 206:25-207:6 (noting she puts her smock in a hamper). Prior to 2007, she removed the gloves, the yellow gloves, and sleeves inside her department. *Id.* at 211:13-212:5. She then washed her sleeves, yellow gloves, gloves and boots. *Id.* at 212:6-213:5. She also had to remove and wash her arm guard, sheath and knife. *Id.* at 213:17-214:7.

She then punches out and walks to her locker to remove her boots, sweater and hairnet. *Id.* at 206:6-13, 208:5-11. It takes four to five minutes to remove her equipment at her locker. *Id.* at 208:12-15. It takes a minute to walk from the time clock to her locker. *Id.* at 209:4-9.

#### **Wilfredo Blanco**

At the end of his shift, Blanco would wash his apron, the sleeve, and his boots. Blanco Dep. 173:5-7; 173:13; 174:4-12. Sometimes he would throw out the plastic gloves instead if they were torn. *Id.* at 173:7-9. He would also wash the metal glove and plastic arm guard and put them in the locker. *Id.* at 110:13-17. After washing his equipment, he would dry it. *Id.* at 176:5-17. He would take off the sleeves arm guard, and the apron inside the department and the smock, hairnet, beard net and earplugs outside the department door. *Id.* at 177:4-25. He would then walk to his locker and take off the boots. *Id.* at 178:10-13. In addition to the boots, metal glove and plastic arm guard, Blanco also stored his apron and cotton gloves in his locker. *Id.* at 137:15-21.

#### **Diana Cedenio**

After the line stops and she has finished cutting the meat, Cedenio washes her hands and equipment. Cedenio Dep. 257:3-15. She then dries her equipment and folds some of it in

preparation for the next work day. *Id.* at 257:3-14. After removing her smock, she places it in a basket, then proceeds to her locker to put away her socks, boots, coat, and hairnet. *Id.* at 257:3-21. After that, she punches out. *Id.* 256:25-257:21. Cedeno's day rarely ended before the scheduled finish time of 5:30am. *Id.* at 164:17-165:18. She regularly left 10 minutes later than the 5:34 or 5:32 stated on her PDRs. *Id.* at 169:4-170:14.

The walk from her work station to the wash station at the end of her shift was the same as it was during lunch. *Id.* at 258:12-15. That is, it took Cedeno 30-60 seconds to walk from her work station to the line at a wash station. *Id.* at 241:11-20 (noting the time it took her to go from her station to the sink at lunch); *id.* at 242:4-5 (noting the sink had a line every day at lunch). Additionally, it took longer to wash and dry her equipment at the end of the day than at lunch because the equipment would smell bad overnight if not properly washed and dried. *Id.* at 258:18-25.

### **Luz Lugo**

Lugo's shift ended after she finished cutting the last chicken. Lugo Dep. 193:19-194:2. Once the last chicken was gone, Lugo would remove her PPE and get in line to wash it. *Id.* She would then walk to her locker and stow her PPE. *Id.* She stowed all of her equipment in her locker except for her smock. *Id.* at 195: 15-197:19. She placed the smock in a laundry bin. *Id.* at 195:15-197:19. Lugo then punch out and left the plant. *Id.* at 198:13-17.

It took Lugo 3 to 5 minutes to remove and to wash her PPE at the end of the shift. *Id.* at 194:3-10. It took her 4 minutes to walk from the wash bins to her locker when she was in Deboning, but only 3 minutes when she was worked in Cut-Up. *Id.* at 194:18-195:4.

**Edgardo Collazo**

Collazo would wash and dry his gloves and boots at the end of the shift. Collazo Dep. 198:25-199:8. Sometimes a line formed at the sinks requiring Collazo to wait before washing his PPE. *Id.* at 209:4-18. It took about 10 minutes to wash and dry the boots and a minute to wash and dry the plastic gloves. *Id.* at 209:10-18. It took about a minute to take off the plastic gloves and cloth gloves. *Id.* at 211:11-212:5. He would take off his smock and place it in a container at the outside of the department which took about 50 seconds. *Id.* at 209:19-210:7. He took off his earplugs and hairnet as he was walking out of the department to his locker. *Id.* at 209:8-210:15.

He then went to his locker. *Id.* at 202:6-9. It took about four minutes to walk to his locker. *Id.* at 212:14-19. After putting his PPE in his locker he would clock out and leave the plant. *Id.* at 204:21-205:17, 207:3-6. It took about 2-3 minutes to walk from the locker to the time clock. *Id.* at 212:20-24.

**Jose Polanco**

At the end of shift the first thing Polanco did was go to the sink. Polanco Dep. 219:9-220:8. When he was cutting he had to wait in a long line because both thigh and breast deboning ended at the same time but when he was a scale operator, he did not wash anything. *Id.* at 220:9-221:6 (cutting); *id.* at 224:10-12 (scale operator). The wait for the sink was 14-16 minutes. *Id.* at 222:12-16. It took longer to wash his equipment at the end of the day because he had to store it in his locker - if they were not washed well, they would smell the next day. *Id.* at 223:13-224:14.

In the cutting position, he removed cloth gloves, safety glove, sleeves, arm guard, and earplugs inside the department. *Id.* at 225:10-226:14. Then he washed and dried them. *Id.* at 226:12-17. He took the apron home to wash again, and left the sleeves, cloth gloves, hairnet,

arm guard and boots in his locker. *Id.* at 226:15-227:10. He put the smock in a container outside the locker room. *Id.* at 226:14-19. He then punched out, and went home. *Id.* at 227:20-24.

### **Johnny Torres Maldonado**

At the end of Maldonado's shift, he would wash his plastic apron, sleeves, and gloves, and put his smock in a laundry bin. Maldonado Dep. 280:17-281:3. He had to wash and dry his PPE well because if he did not, it would attract roaches while in his locker. *Id.* at 281:13-18. It took him about two minutes to wash at the end of his shift and a minute to doff the sleeves, gloves and apron. *Id.* at 281:19-283:4. He would punch out after washing his PPE, and then dry the PPE before he went to his locker. *Id.* at 293:12-294:20. The laundry bin where he tossed his smock was a 45 second walk from the sinks. *Id.* at 283:5-12. From the laundry bin, Maldonado would walk to his locker. *Id.* at 283:13-15; *see also id.* at 289:13-19 ("When you left, the supervisor told you to punch out. And then I had to dry the equipment, take the smock, put it in the laundry and then you have to go out to the locker to leave the rest of the equipment.")). Maldonado removes the hairnet while walking to his locker. *Id.* at 283:15-25.

Maldonado's end of shift procedure did not change depending upon whether he was packing versus feeding thighs into the machine. *Id.* at 284:13-285:2. When he was a saw operator or in trimming, he also had to take off the safety gloves which added about 20-40 seconds. *Id.* at 285:3-286:8 (saw operator), 288:4-20 (trimming). His procedure took less time when he was tying chickens and operating the pallet jack. *Id.* at 286:9-24.

### **Elliot Hernandez**

At the end of his shift, Hernandez would immediately get in line to wash his PPE including his plastic apron, sleeves, gloves, arm guard, and boots. *Id.* at 237:22-238:11. A line formed at the sinks because everyone wanted to wash their PPE well at the end of the shift before putting it in their locker. *Id.* at 238:12-239:23. After washing, Hernandez took his time to dry

the PPE well. *Id.* at 240:16-22. He put the smock in a laundry basket just outside the door to the deboning department. *Id.* at 241:5-11.

At the end of the shift, it took him about 10-15 minutes to take everything off at his locker and put it away. *Id.* at 242:2-22. It was very crowded at the lockers so it took longer that it would have had he been alone. *Id.* at 242:2-22. It took 2-3 minutes to walk from the department back to his locker. *Id.* at 245:12-15. When he was not cutting and when he was an assistant supervisor, his end of shift procedure took less time. *Id.* at 253:11-16, 256:11-257:7.

### **Joyce Rubendall**

Rubendall washes her gear more thoroughly at the end of her shift than at the meal break “because you’re done for the day.” Rubendall Dep. 215:15-22. She would scrub it better and then dry it and put it in her locker for the next day. *Id.* at 215:23-216:2. Prior to 2007, she would take her mesh glove off at the sink and wash and dry it and stow it in her locker. *Id.* at 218:6-11. She also put her apron and rubber glove in her locker during that time period. *Id.* at 218:17-219:17. She would doff her smock in the hallway and put it in a hamper located either in the hallway or the locker area. *Id.* at 220:2-7.

She described her routine as follows:

“[A]t the ending of our shift . . . , you get off the line and you had to wash your apron, wash all your equipment . . . , sanitize everything and stuff because you had to store everything in your lockers. So, therefore, at the end of the shift, you had to go to the sinks where everybody else was at and wait your turn to be able to get to the sink to wash your equipment . . . . Then, of course, you had to dry – like, I always had to dry my apron off and didn’t want to put it in my locker wet. The same thing with my boots and everything, you had to – because that’s required to have your stuff clean again . . . for the next day.”

*Id.* at 18:17-19:13.

She would punch out before leaving but, prior to 2007, the only time her physical punch out would affect her pay was if she punched out before her line ended. *Id.* at 89:9-13.

**Damaris Perez**

At the end of her shift, Perez would wash her equipment. Perez Dep. 234:25-235:3. She would have to wait in line at the sink. *Id.* at 239:21-23. When she got to the front of the line, she washed her plastic gloves, arm protector, plastic sleeves, plastic apron, and her boots. *Id.* at 237:17-238:17. She spent more time cleaning her PPE at the end of the shift than at lunch. 240:10-16; *see also id.* at 282:20-25 (noting she spent about 3-5 minutes cleaning her PPE at the end of the shift and estimating a similar time for her coworkers). She then took a 3-4 minute walk from the department to her locker. *Id.* at 242:2-6. Once she finished doffing and stowing equipment in her locker, it took her a minute and a half to two minutes to walk from the locker to the time clock. *Id.* at 242:7-10. Most people in deboning followed the same routine at the end of the shift. *Id.* at 269:13-270:25.

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Respectfully submitted,

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